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BACON & THOMAS, PLLC
625 Slaters Lane, 4th Floor
Alexandria, VA 22314-1176

EXAMINER

DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/742,438

Applicant(s)

KONTOGOURIS, LEANDROS

Examiner

Arthur Duran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/3/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-49 have been examined.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/3/05 has been entered.

Response to Amendment

3. The Amendment filed on 2/3/05 is sufficient to overcome the Auxier and Rowland reference.

Claim Rejections - 35 USC § 112

Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 states "preventing access to said desired address, service, or content that was requested by the user before the user requested access to said address, service, or content".

These features of this claim are unclear and require clarification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 3, 8-11, 21, 22, 26-29, 35, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auxier (6,379,251) in view of Rowland (5,848,412) in view of Fuller (6,216,112).

Claim 1, 21, 35: Auxier discloses a method, system for ensuring that a user acknowledges an advertisement in exchange for access to an electronic address, service, or content, comprising: a computing or communications device of said user, said computing or communications device being connected to a provider of said address, service, or content, over a data communications network (Fig. 1); software arranged to be loaded onto said computing or communications device and arranged to participate in presentation of an interactive banner advertisement to the user when said user indicates a desire to access said address, service, or content (col 3, lines 57-61; Fig. 3; col 2, lines 10-20), wherein, upon presentation of the interactive banner advertisement, said user is permitted access to an address, service, or content only if the user submits an appropriate reply to the interactive banner advertisement (col 8, lines 60-65).

Auxier further discloses that when said user indicates a desire to access said address, service, or content via the computer network, causing an advertising server to present an interactive banner advertisement to the user (Fig. 6),

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that, upon presentation of the interactive banner advertisement, said user is permitted access to an address, service, or content only if the user submits an appropriate reply to the interactive banner advertisement (col 8, lines 60-65).

Auxier further discloses targeting information and advertising to a specific user (col 3, lines 11-15)

Auxier does not explicitly disclose preventing access to said desired address, service, or content, and continuing to prevent said access to said desired address, service, or content so long as the user fails to submit the appropriate reply.

However, Rowland discloses preventing access to said desired address, service, or content, and continuing to prevent said access to said desired address, service, or content so long as the user fails to submit the appropriate reply (col 1, lines 20-34; col 1, line 60-col 2, line 5; Fig. 7).

Rowland further discloses providing marketing services (col 1, lines 20-34).

Rowland further discloses profiling a user and collecting demographic information (col 1, lines 20-27) and a user interacting with an interim page before being allowed access to the desired page (col 1, lines 20-34).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Rowland's preventing access to said desired website unless an appropriate reply is given to an interactive webpage to Auxier's presenting an advertisement and preventing access to a website unless an appropriate reply is given to an interactive advertisement. One would have been motivated to do this in order to present Auxier's interactive advertisement in an already desirable web path.

Additionally, Auxier discloses that the interactive banner advertisement provides information promoting a product or service (col 6, lines 22-26; col 1, lines 42-47; col 5, lines 35-42).

Auxier discloses that a user requests access to a webpage and that an interactive advertisement can be sent with the webpage data that was requested (Fig. 2).

Auxier further discloses tracking, monitoring, and recording advertisement delivery, interaction, success, etc (col 1, lines 27-60) and that users are targeted (col 3, lines 10-15).

Additionally, Auxier discloses that the user knows what website they will be sent to (Fig. 4, item 410, Advertiser Name) and that a user can be prevented from being given access to that requested website if the user does not offer an appropriate reply (col 8, lines 59-64).

Hence, Auxier discloses both sending an interactive advertisement with a webpage request that a user has made and Auxier discloses utilizing an advertisement that requires an appropriate user interaction or reply before a user is allowed to access a requested site (the Advertiser/Merchant site).

Rowland discloses that user demographic information is collected (Fig. 5) and that the sites that a user can access include commercial sites (Fig. 6). Furthermore, it is well known in the art that the commercial sites referenced such as Microsoft and WalMart (Fig. 6) frequently utilize advertising.

Rowland further discloses that the user is blocked from accessing the requested website (col 1, lines 5-10) and that user information can be collected from the user for the purposes of enhancing marketing and advertising (col 1, lines 20-35) and that user demographic information can be collected before a user is allowed to access a requested site (col 1, lines 20-25).

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Rowland's request for demographic information for marketing purposes before allowing a user to access a requested site can include an advertisement for the merchant site that access was requested to or that Auxier's interactive advertisement can be placed before the user is given access to the requested site. One would have been motivated to do this in order to better ensure interaction with the information request or advertising.

Additionally, Auxier discloses that the address, service, or content is provided by a server or broadcaster that is distinct from the advertising server (Fig. 1).

Additionally, Fuller discloses downloading software over the Internet:

"(5) The retail sale of software programs is identical to other types of retail sales with software programs being sold in stores, through the mail, and more recently, on-line via the Internet. Frequently software and data sold over the Internet are made available to consumers on a trial basis with the trial version of the software program ceasing to function after an interval of time, e.g., thirty days" (col 1, lines 19-25).

Fuller further discloses Web advertising and that users ignore Web advertising:

"(8) It is also known that the state of the art for advertising on personal computers (PCs) currently consists of Internet advertising that is displayed using World Wide Web (or Internet) browser software. As users browse the Internet, the various sites they visit display advertisements of a random nature or advertisements that are related to the content of the Web pages being browsed. Although this method of advertisement is growing rapidly it is not ideal in several respects. Web page based advertisements are easy to ignore. They generally occupy a small area of the computer monitor's display and are inconsistent in appearance with the

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material that hosts them. Internet users quickly adjust and typically ignore advertisements” (col 1, line 55-col 2, line 1).

Fuller further discloses receiving content in exchange for viewing advertising:

“(9) Because of television, most people in this country are accustomed to the concept of viewing advertisements in exchange for having free access to programming” (col 2, lines 6-10).

Fuller further discloses viewing advertising before accessing the content of interest:

“(12) An advancement of the art is needed for distributing software programs that insures equitable payment to the authors and distributors of said programs. Further, advertisements that are difficult to ignore and are viewed whenever the software program is used should be used to generate the payment for these software programs. Without these advertisements, advertisers will continue to face a decreasing number of viewers. As mentioned above, because of radio, television and the print media, consumers are already used to viewing or hearing advertisements as a means to access an otherwise free service” (col 2, lines 27-40).

Fuller discloses distribution of content:

“(17) Distribution of digitized data other than software will also benefit from the disclosed invention. This is especially true of data made available on the Internet” (col 3, lines 7-15).

Fuller discloses utilizing hosts and web servers:

“(18) In the preferred embodiment of the invention, an Internet Web Server functions as a host computer for storing software programs. The programs are loaded onto the Web Server by their authors making them accessible to Internet users. These users can then access the Web Server, survey the available software stored on the Server, and then download the chosen

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software for installation and storage on a hard disk or some other storage medium for subsequent use" (col 3, lines 15-25).

Fuller discloses utilizing hyperlinks to access content:

"(3) The system 100 includes a computer server 102 that resides connected to the Internet 104. It should be noted that in an alternate embodiment the Internet 104 can be any computer network used by consumers to access and purchase goods and services. The server 102 is a typical Internet server currently known by those familiar with the art. Servers such as server 102 are used on the Internet in a configuration commonly referred to as a "client/server" architecture. With a client/server architecture, the server computer receives and responds to commands from a plurality of client computers. Server computers can respond to a variety of commands, e.g., transferring copies of files or programs to a client computer. The commands are usually transmitted from the client computer to the server computer in a protocol known as Hypertext Transfer Protocol (or HTTP). . . The directory 108 can also contain names and descriptions of software packages stored on other servers 102 connected to the Internet. These titles and descriptions would contain hyperlinks that would enable users to readily access the alternative servers 102" (col 5, line 47-col 6, line 12).

Fuller further discloses utilizing HTTP and HTML and accessing WWW content:

"(5) Although not shown, the server 102 and the computers 110-114 transmit data via standard protocols such as the Hypertext Transfer Protocol (HTTP). This is a client/server protocol commonly used to access data on the World Wide Web (col 6, lines 45-50). . .

(15) The browser program is one of several commercially available programs that enables computer users to view HTML and other Internet or World Wide Web document types. Most

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browser programs show document texts, and also display graphic and video files, play audio files and execute small programs, such as Java applets. Browser programs allow users to follow hyperlinked texts and transfer files. Microsoft's Internet Explorer and Netscape's Navigator are well known and readily available Browser Programs. The installation package 210 also installs the Adware plug-in module 228. Typically, plug-in modules are applications or programs designed to assist the operation of the Web Browser" (col 8, line 67-col 9, line 12).

And, Fuller further discloses an interactive advertisement that blocks access to an address, service, or content that the user has requested to access; that the interactive advertisement can promote a product or service; that the interactive advertisement can require an appropriate reply before allowing the user to access the original address, service, or content requested for access to by the user; and permitting access to the address, service, or content only if the user enters an appropriate reply:

"(34) At step 338 in FIG. 3, a determination was made whether the advertisement was an interactive advertisement. If a "yes" determination was made, execution proceeded to step 340, wherein execution proceeded to FIG. 5 and step 500. . . At step 502, a determination is made whether data is input by the user in response to the advertisement. It is known in the art that computer users can input data via a number of different input devices. . . used to collect user inputs in response to on-screen prompts that are created and presented by the interactive advertisement. If the user fails to respond to the interactive advertisement, then a "no" determination is made and execution progresses to step 504. At step 504, the program closes because a response to the interactive advertisement is required before the program runs. In an alternative embodiment, interaction with the advertisement is optional and the execution returns

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to FIG. 3 at step 340 where the execution proceeds to step 342 and program is executed. In yet another alternative, text, graphics or some other media is output to the monitor explaining to the user that he or she must respond to the advertisement in order to access the program. If at step 502 a determination is made that the user has responded to the advertisement, then execution progresses to step 506. It should be noted that there are numerous ways that an interactive advertisement can be constructed and that a user may interact with that advertisement. For example, the advertisement may contain hyperlinks that will connect the user to an on line server or to other advertising modules. As another example, the advertisement may contain a survey and the user provides answers to questions such as, "What color automobiles do you prefer?" In this instance, the user could manipulate an image of the product with the answers to the survey. . . . The interactive advertisement could also output print data to a printer connected to the computer 110 that could print one or multiple coupons or rebate offers. As an incentive, with this option, the advertisement software could postpone printing the coupon or rebate offer until the user answers all the questions in the survey or until the data accumulated in response to the survey is transmitted to a server 102" (col 15, line 9-54).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Fuller's user requested access to an address, service, or content and then presenting an interactive advertisement that blocks access to the requested address, service, or content to Auxier's interactive advertisement that can be placed before the user is given access to a site. One would have been motivated to do this in order to present advertising at a time that will gain more attention from the user.

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Claim 2: Auxier and Rowland and Fuller disclose a method as claimed in claim 1, and Auxier further discloses that said electronic address, service, or content is an Internet uniform resource locator (col 1, lines 33-35).

Claim 3, 22, 36: Auxier and Rowland and Fuller disclose a method as claimed in claim 1, and Auxier further discloses that said electronic address, service, or content is content provided by a server connected to the Internet (col 1, lines 10-15).

Claim 8, 26: Auxier and Rowland and Fuller disclose a method as claimed in claim 7, and Auxier further discloses that a provider of the electronic address, service, or content downloads said client software to the user's computing device when said user requests access to said electronic address, service, or content (Fig. 3; col 2, lines 10-20).

Claim 9, 27: Auxier and Rowland and Fuller disclose a method as claimed in claim 8. Auxier further discloses that said client software is resident on said user's computing device before said user requests access to said electronic address, service, or content (col 4, lines 43-53; col 2, lines 10-15). Auxier further discloses the reception of special code that allows banner advertisements to be interacted with (col 4, lines 43-53) and that the special code can be stored on the client computer (col 2, lines 10-15). Therefore, Auxier implies that the special code can reside on the client computer before future requests for the user will make.

Claim 10, 28: Auxier and Rowland and Fuller disclose a method as claimed in claim 8, and Auxier further discloses that said client software is resident on a server located at or that provides the electronic address, service, or content (Fig. 3; col 2, lines 9-11). Note that regardless of where the client software runs from, the client software is resident on the server before the client software is downloaded from the server to the client.

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Claim 11, 29: Auxier and Rowland and Fuller disclose a method as claimed in claim 1, and Auxier further discloses that said client software connects said user's computing device to a server located at or that provides said electronic address, service, or content, and wherein said server carries out said steps of presenting said interactive banner advertisement and permitting access to said electronic address, service, or content (Fig. 3; col 2, lines 10-20).

5. Claim 7, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auxier (6,379,251) in view of Rowland (5,848,412) in view of Fuller (6,216,112) in view of Griffiths (6,286,045).

Claim 7, 25: Auxier and Rowland and Fuller disclose a method as claimed in claim 1.

Auxier discloses an interactive banner advertisement and permitting access to said service only if the user submits an appropriate reply to the banner advertisement as disclosed in the independent claim.

Auxier does not explicitly disclose that said client software connects said user's computing device to a proxy server, and wherein said proxy server carries out said steps of presenting said interactive banner advertisement.

However, Griffiths discloses banner advertisements (col 3, lines 13-21). Griffiths further discloses that said client software connects said user's computing device to a proxy server, and wherein said proxy server carries out said steps of presenting said interactive banner advertisement (Fig. 1; Fig. 3; col 4, lines 17-29). Griffiths further discloses taking measures for more efficient delivery of advertising over a network (col 1, lines 9-15).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Griffiths utilization of proxy servers with banner advertisements

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to Auxier's banner advertisements delivered over a network. One would have been motivated to do this for more efficient deliver of advertising over a network.

6. Claims 4, 5, 6, 12-15, 19, 20, 23, 24, 30, 31, 32, 37, 38, 39, 42-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auxier (6,379,251) in view of Rowland (5,848,412) in view of Fuller (6,216,112) in view of Slotznick (6,011,537).

Claim 42, 44, 46, 47: Auxier and Rowland disclose a banner advertisement, comprising: promotional text arranged in a box on a display screen of a computing or communications device and presented to a user of the computing or communications device who requests access to an electronic address, service, or content over a network (Fig. 4; col 3, lines 57-61); and area associated with said box for permitting entry of a response to said text (col 8, lines 60-65; Fig. 4), wherein said banner advertisement prevents access to an electronic address, service, or content unless said response to said text is entered by the user (col 8, lines 60-65; Fig. 4).

Auxier further discloses that said banner advertisement is in a multimedia format (col 2, lines 5-9).

Auxier does not explicitly disclose that the promotional text is presented when the user requests access to content over a network.

However, Slotznick disclose that the promotional text is presented when the user requests access to content over a network (col 4, lines 49-56).

Slotznick further discloses that said area includes a pop-up menu (col 3, lines 34-36).

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Slotznick further discloses sounds and multimedia (col 1, lines 53-57; col 1, lines 61-64; col 2, lines 12-25).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Slotznick's presenting the promotion when the user requests content to Auxier's game before the user is permitted to access the content. One would have been motivated to do this because some users may not want to request the primary information or content if they knew that had to see promotional information first.

Auxier further discloses that when said user indicates a desire to access said address, service, or content via the computer network, causing an advertising server to present an interactive banner advertisement to the user (Fig. 6),

that, upon presentation of the interactive banner advertisement, said user is permitted access to an address, service, or content only if the user submits an appropriate reply to the interactive banner advertisement (col 8, lines 60-65).

Auxier further discloses targeting information and advertising to a specific user (col 3, lines 11-15)

Auxier does not explicitly disclose preventing access to said desired address, service, or content, and continuing to prevent said access to said desired address, service, or content so long as the user fails to submit the appropriate reply.

However, Rowland discloses preventing access to said desired address, service, or content, and continuing to prevent said access to said desired address, service, or content so long as the user fails to submit the appropriate reply (col 1, lines 20-34; col 1, line 60-col 2, line 5; Fig. 7).

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Rowland further discloses providing marketing services (col 1, lines 20-34).

Rowland further discloses profiling a user and collecting demographic information (col 1, lines 20-27) and a user interacting with an interim page before being allowed access to the desired page (col 1, lines 20-34).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Rowland's preventing access to said desired website unless an appropriate reply is given to an interactive webpage to Auxier's presenting an advertisement and preventing access to a website unless an appropriate reply is given to an interactive advertisement. One would have been motivated to do this in order to present Auxier's interactive advertisement in an already desirable web path.

Additionally, Fuller discloses downloading software over the Internet:

"(5) The retail sale of software programs is identical to other types of retail sales with software programs being sold in stores, through the mail, and more recently, on-line via the Internet. Frequently software and data sold over the Internet are made available to consumers on a trial basis with the trial version of the software program ceasing to function after an interval of time, e.g., thirty days" (col 1, lines 19-25).

Fuller further discloses Web advertising and that users ignore Web advertising:

"(8) It is also know that the state of the art for advertising on personal computers (PCs) currently consists of Internet advertising that is displayed using World Wide Web (or Internet) browser software. As users browse the Internet, the various sites they visit display advertisements of a random nature or advertisements that are related to the content of the Web pages being browsed. Although this method of advertisement is growing rapidly it is not ideal

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in several respects. Web page based advertisements are easy to ignore. They generally occupy a small area of the computer monitor's display and are inconsistent in appearance with the material that hosts them. Internet users quickly adjust and typically ignore advertisements" (col 1, line 55-col 2, line 1).

Fuller further discloses receiving content in exchange for viewing advertising:

"(9) Because of television, most people in this country are accustomed to the concept of viewing advertisements in exchange for having free access to programming" (col 2, lines 6-10).

Fuller further discloses viewing advertising before accessing the content of interest:

"(12) An advancement of the art is needed for distributing software programs that insures equitable payment to the authors and distributors of said programs. Further, advertisements that are difficult to ignore and are viewed whenever the software program is used should be used to generate the payment for these software programs. Without these advertisements, advertisers will continue to face a decreasing number of viewers. As mentioned above, because of radio, television and the print media, consumers are already used to viewing or hearing advertisements as a means to access an otherwise free service" (col 2, lines 27-40).

Fuller discloses distribution of content:

"(17) Distribution of digitized data other than software will also benefit from the disclosed invention. This is especially true of data made available on the Internet" (col 3, lines 7-15).

Fuller discloses utilizing hosts and web servers:

"(18) In the preferred embodiment of the invention, an Internet Web Server functions as a host computer for storing software programs. The programs are loaded onto the Web Server

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by their authors making them accessible to Internet users. These users can then access the Web Server, survey the available software stored on the Server, and then download the chosen software for installation and storage on a hard disk or some other storage medium for subsequent use" (col 3, lines 15-25).

Fuller discloses utilizing hyperlinks to access content:

"(3) The system 100 includes a computer server 102 that resides connected to the Internet 104. It should be noted that in an alternate embodiment the Internet 104 can be any computer network used by consumers to access and purchase goods and services. The server 102 is a typical Internet server currently known by those familiar with the art. Servers such as server 102 are used on the Internet in a configuration commonly referred to as a "client/server" architecture. With a client/server architecture, the server computer receives and responds to commands from a plurality of client computers. Server computers can respond to a variety of commands, e.g., transferring copies of files or programs to a client computer. The commands are usually transmitted from the client computer to the server computer in a protocol known as Hypertext Transfer Protocol (or HTTP). . . The directory 108 can also contain names and descriptions of software packages stored on other servers 102 connected to the Internet. These titles and descriptions would contain hyperlinks that would enable users to readily access the alternative servers 102" (col 5, line 47-col 6, line 12).

Fuller further discloses utilizing HTTP and HTML and accessing WWW content:

"(5) Although not shown, the server 102 and the computers 110-114 transmit data via standard protocols such as the Hypertext Transfer Protocol (HTTP). This is a client/server protocol commonly used to access data on the World Wide Web (col 6, lines 45-50). . .

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(15) The browser program is one of several commercially available programs that enables computer users to view HTML and other Internet or World Wide Web document types. Most browser programs show document texts, and also display graphic and video files, play audio files and execute small programs, such as Java applets. Browser programs allow users to follow hyperlinked texts and transfer files. Microsoft's Internet Explorer and Netscape's Navigator are well known and readily available Browser Programs. The installation package 210 also installs the Adware plug-in module 228. Typically, plug-in modules are applications or programs designed to assist the operation of the Web Browser" (col 8, line 67-col 9, line 12).

And, Fuller further discloses an interactive advertisement that blocks access to an address, service, or content that the user has requested to access; that the interactive advertisement can promote a product or service; that the interactive advertisement can require an appropriate reply before allowing the user to access the original address, service, or content requested for access to by the user; and permitting access to the address, service, or content only if the user enters an appropriate reply:

"(34) At step 338 in FIG. 3, a determination was made whether the advertisement was an interactive advertisement. If a "yes" determination was made, execution proceeded to step 340, wherein execution proceeded to FIG. 5 and step 500. . .At step 502, a determination is made whether data is input by the user in response to the advertisement. It is known in the art that computer users can input data via a number of different input devices. . . used to collect user inputs in response to on-screen prompts that are created and presented by the interactive advertisement. If the user fails to respond to the interactive advertisement, then a "no" determination is made and execution progresses to step 504. At step 504, the program closes

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because a response to the interactive advertisement is required before the program runs. In an alternative embodiment, interaction with the advertisement is optional and the execution returns to FIG. 3 at step 340 where the execution proceeds to step 342 and program is executed. In yet another alternative, text, graphics or some other media is output to the monitor explaining to the user that he or she must respond to the advertisement in order to access the program. If at step 502 a determination is made that the user has responded to the advertisement, then execution progresses to step 506. It should be noted that there are numerous ways that an interactive advertisement can be constructed and that a user may interact with that advertisement. For example, the advertisement may contain hyperlinks that will connect the user to an on line server or to other advertising modules. As another example, the advertisement may contain a survey and the user provides answers to questions such as, "What color automobiles do you prefer?" In this instance, the user could manipulate an image of the product with the answers to the survey. . . . The interactive advertisement could also output print data to a printer connected to the computer 110 that could print one or multiple coupons or rebate offers. As an incentive, with this option, the advertisement software could postpone printing the coupon or rebate offer until the user answers all the questions in the survey or until the data accumulated in response to the survey is transmitted to a server 102" (col 15, line 9-54).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Fuller's user requested access to an address, service, or content and then presenting an interactive advertisement that blocks access to a requested address, service, or content to Auxier's interactive advertisement that can be placed before the user is

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given access to the requested site. One would have been motivated to do this in order to present advertising that will gain more attention.

Claim 4, 5, 6, 12, 14, 20, 23, 24, 30, 32, 37, 38, 39, 48, 49: Auxier and Rowland and Fuller disclose a method as claimed in claim 1 and Auxier, Rowland, and Slotznick disclose an advertisement as in claim 42.

Auxier discloses television and the Internet (col 1, lines 10-15; col 1, lines 17-21).

Auxier does not explicitly disclose that said electronic address, service, or content provided by a broadcaster on an interactive digital television network.

Auxier does not explicitly disclose an cellular or wireless network.

However, Slotznick discloses that said electronic address, service, or content provided by a broadcaster on an interactive digital television network (col 5, lines 24-28; col 7, lines 35-42).

Slotznick further discloses a wireless network and a cellular network (col 18, lines 25-32).

Slotznick further discloses the utilization of cookies (col 15, lines 40-47).

Slotznick further discloses a plug-in to an Internet browser installed on said user's computing device (col 31, lines 53-55; col 32, lines 1-14).

Slotznick further discloses that said electronic address, service, or content is a subscription-based service (col 16, lines 18-21).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Slotznick's interactive television, cellular, wireless network, and cookies to Auxier's Internet and television. One would have been motivated to do this because interactive television is an obvious device that combines the Internet and television and would

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appeal to many users and the Internet is obviously manifested on different types of network for the convenience of the user and cookies are a standard and convenient way to store information on a user's device. Furthermore, plug-ins are standard Internet software tools and a subscription service is a standard and convenient way for a user to receive information.

Claim 13, 31: Auxier, Rowland, and Fuller and Slotznick disclose the method as claimed in claim 12.

Auxier further discloses downloading software (col 2, lines 9-20) and that software is necessary before gaining access to said electronic address, service, content and that that software is retrieved (col 4, lines 45-50; Fig. 3).

Auxier does not explicitly disclose that the software is a plug-in or that the download occurs when the user requests access to the content.

However, Slotznick discloses a plug-in to an Internet browser installed on said user's computing device (col 31, lines 53-55; col 32, lines 1-14).

Slotznick further discloses downloading required software to the client when the client requests access to the electronic address, service, or content (col 12, lines 40-52).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Slotznick's plug-in downloaded when the user requests content to Auxier's necessary software which is retrieved to the client device before accessing the content and Auxier's software which is downloaded to the client device. One would have been motivated to do this because a plug-in is a standard Internet software tool and downloading required software when a user requests access to content is a convenient time to download software to a client.

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Claim 15, 19: Auxier, Rowland, and Fuller and Slotznick disclose a method as claimed in claim 14.

Auxier further discloses targeting advertisements to the user (col 3, lines 10-13).

Auxier further discloses collecting user provided information (col 2, lines 39-42; col 7, lines 17-23).

Auxier does not explicitly disclose the steps of identifying said user and determining whether said user has a subscription to said service, and wherein said step of presenting said interactive banner advertisement is carried out if said user does not have a subscription to said service.

However, Slotznick discloses the steps of identifying said user and determining whether said user has a subscription to said service, and wherein said step of presenting said interactive banner advertisement is carried out if said user does not have a subscription to said service (col 16, lines 9-29).

Slotznick further discloses that said interactive banner advertisements are selected based on information stored on said user's computing device and information provided by said user (col 16, lines 9-20).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Slotznick's different information depending on the type of user to Auxier's targeted user. One would have been motivated to do this because targeting a user implies sending that user different information depending upon who the user is.

Claim 43, 45: Auxier, Rowland, and Fuller and Slotznick disclose an advertisement as claimed in claim 43.

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Auxier further discloses that said electronic address, service, or content is content provided by a server connected to the Internet (col 1, lines 10-15).

Auxier further discloses a hyperlink to a website of said advertiser (col 1, lines 33-35).

7. Claim 16-18, 33, 34, 40, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auxier (6,379,251) in view of Rowland (5,848,412) in view of Fuller (6,216,112) in view of Slotznick (6,011,537) in view of Eggleston (6,061,660).

Claim 16: Auxier and Rowland and Fuller disclose a method as claimed in claim 1.

Auxier further discloses targeting a user and that a user can be a repeat user (col 3, lines 10-14; col 4, lines 45-54).

Auxier further discloses that the user can win (col 6, lines 25-30).

Auxier further discloses that the user can win prizes in the form of the merchants services (col 6, lines 25-30).

Auxier does not explicitly disclose tallying credits or a subscription service.

However, Slotznick discloses a subscribing user or paying user (col 16, lines 17-22).

Slotznick further discloses that presenting said interactive banner advertisement can be based on the status and history of the user including whether or not the user has a subscription to said service (col 16, lines 9-29). Slotznick further discloses that whether an ad is shown or not can be controlled (col 16, lines 20-25).

Eggleston discloses tallying credits so that a user can receive a prize (col 13, lines 50-67) including the services of a merchant (col 1, lines 33-35; col 13, lines 60-62) and that the credits

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are tallied in response to a correct answer (col 26, lines 53-58; col 7, lines 45-50) and that the user has an account with credits in it (col 16, lines 54-56).

Eggleston further discloses that a user can be awarded for watching advertising (col 1, lines 37-45).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Slotznick's subscription service and Slotznick's showing different advertisements to a user based upon the user status and history and Eggleston's tallying of points won as a status about a user to Auxier's targeted user and receiving merchant services as a prize for correct answers. One would have been motivated to do this because a subscription service is an obvious merchant service and tallying prize totals allows tracking the user for more advanced targeting over the longer term.

Claim 17, 18, 33, 34, 40, 41: Auxier and Rowland and Fuller disclose a method as claimed in claim 1.

Auxier further discloses targeting a user and that a user can be a repeat user (col 3, lines 10-14; col 4, lines 45-54).

Auxier further discloses that the user can win (col 6, lines 25-30).

Auxier further discloses that the user can win prizes in the form of the merchants services (col 6, lines 25-30).

Auxier does not explicitly disclose tallying credits or a subscription service.

However, Slotznick discloses a subscribing user or paying user (col 16, lines 17-22).

Slotznick further discloses that presenting said interactive banner advertisement can be based on the status and history of the user including whether or not the user has a subscription to

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said service (col 16, lines 9-29). Slotznick further discloses that whether an ad is shown or not can be controlled (col 16, lines 20-25).

Eggleston discloses tallying credits so that a user can receive a prize (col 13, lines 50-67) including the services of a merchant (col 1, lines 33-35; col 13, lines 60-62) and that the credits are tallied in response to a correct answer (col 26, lines 53-58; col 7, lines 45-50) and that the user has an account with credits in it (col 16, lines 54-56).

Eggleston further discloses that a user can be awarded for watching advertising (col 1, lines 37-45).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Slotznick's subscription service and Eggleston's tallying of points won so that a user can receive a merchant service to Auxier's targeted user and receiving merchant services as a prize for correct answers. One would have been motivated to do this because a subscription service is an obvious merchant service and tallying prize totals allows tracking the user for more advanced targeting over the longer term.

Response to Arguments

8. Applicant's arguments with respect to claims 1-49 have been considered but are moot in grounds of the new rejection.

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a. Toader (5,806,043) discloses viewing mandatory advertising/surveying before a user is presented the service/address/content of interest (col 2, lines 30-53):

“(9) The pertinent answers are then immediately provided to the sponsor/vendor. The Internet Entry Server then "hot-links" the customer to the sponsor/vendor's Internet domain or Home Page for a mandatory "guided tour" where the user is exposed to any current product promotion by the sponsor/vendor and can download promotional coupons, product information, etc. After this mandatory guided tour is completed, the customer is allowed to enter queries for help in installing or using the sponsor/vendor's product. As an optional promotional service, upon termination of the on-line help session, access to other information on the Internet can be provided. Once the "free" on-line help service time or time period is up, the Internet Entry Server prompts the user with one or more of a plurality of options for extending the availability of on-line help. For example, the user can be prompted to enter a credit card number to which on-line help charges can be charged; he or she can be given the opportunity to answer additional survey information in return for additional "free" on-line help; or a 900 subscriber paid telephone access number can be provided through which additional on-line help will be billed via the normal telephone company 900 billing cycles” (col 2, lines 30-53);

b. Toader (5,749,075) discloses viewing mandatory advertising/surveying before a user is presented the service/address/content of interest;

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c. Toader (5,774,869) discloses viewing mandatory advertising/surveying before a user is presented the service/address/content of interest;

d. Toader (WO 96/39668) discloses viewing mandatory advertising/surveying before a user is presented the service/address/content of interest;

e. Goldhaber (5,855,008) discloses reducing costs to a service as an incentive;

f. de Ment (6,728,755) discloses presenting advertising surveys;

g. Xu (6,418,462) discloses presenting free content in exchange for ad viewing;

h. Palmer (6,505,773) discloses presenting required ad viewing.

i. Experts Exchange and Google Groups disclose requiring mandatory information or viewing of advertising from a user before presenting the user the information of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Arthur Duran
Patent Examiner
3/7/05